

**SAN DIEGO REGIONAL BOARD RESPONSES TO COMMENTS
TENTATIVE ORDER NO R9-2009-0094, NPDES No. CAG679001**

GENERAL COMMENTS & MAJOR CONCERNS	REGIONAL BOARD RESPONSES
July 17, 2009 letter from San Diego County Water Authority on behalf of the Technical Advisory Committee (TAC)	
<p>1. Adoption of the Order is scheduled for August 12, 2009, with written comments due on August 5, 2009, and an effective date of September 1, 2009. This does not allow adequate time to resolve issues with respect to the changes from the prior permit.</p>	<p>At this time the Regional Board is not postponing this item, however, the status can change up until the date of the Board Meeting.</p>
<p>2. The draft tentative Order eliminates the minimum reporting level of discharges for 500,000 gallons/day or more. This will add thousands of discharges under 500,000 gallons/day that need to be reported and approved, will overwhelm administrative and compliance capability, and will increase the cost of service.</p>	<p>Prolonged and continuing drought conditions in the State have made water conservation a crucial consideration with respect to water supply. The discharge of millions of gallons of water by potable water distribution agencies has been a concern of the public and of this Regional Board.</p> <p>After discussion with the TAC, the tentative Order has been revised to include a minimum reporting level of 1 acre-ft/day (325,850 gallons/day). A reduction in reporting levels will encourage water conservation and/or re-use and is consistent with the Governor's Proclamation on Water Shortage issued February 27, 2009.</p>
<p>3. The Notice of Intent contains open-ended requirements for certification of alternate methods of disposal or re-use. Potable water systems are already required to operate under strict Best Management Practices (BMP's) to limit water loss due to leakage, upset, and maintenance discharges. No additional regulation is needed.</p>	<p>See Response to Comment No. 2.</p> <p>This requirement was set to ensure compliance with Section 13550 of the California Water Code which states that water resources of the State shall be put to beneficial use to the fullest extent possible.</p> <p>The language in the tentative Order has been revised to be consistent with the language in Order No. R9-2002-0020, however, additional language has been included to ensure that the discharges meet the agencies conservation goals and BMPs.</p>
<p>4. The requirement to obtain approval from each MS4 operator, prior to every discharge, places unreasonable burden on water agencies. The added complexity and cost is not justified for such</p>	<p>The tentative Order has been revised.</p> <p>See Errata Sheet.</p>

Supporting Document No. 8

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<p>low risk discharges, and the process could jeopardize projects that require dewatering operations.</p>	
<p>5. Hydrostatic testing of new oil and gas facilities and reclaimed waters systems have been included in this permit. This adds unrelated groups with the potential of higher risk discharges to the permit.</p>	<p>Hydrostatic testing of new oil and gas facilities and reclaimed water systems is included in existing Order No. R9-2002-0020; this is not a new addition and will remain unchanged in the tentative Order unless additional information is provided that would justify removing this requirement from the tentative Order prior to the August 12, 2009 Regional Board Meeting.</p>
<p>6. Discharge of water into water conveyance systems is no longer exempt under the new proposal. Water discharged into a potable water source poses no risk to the public or environment.</p>	<p>Water transfers are not covered under the tentative Order.</p> <p>On June 13, 2008, USEPA issued regulation that excluded from NPDES permitting requirements discharges from water transfers that do not subject the water to an intervening industrial, municipal, or commercial use, so long as pollutants are not introduced by the water transfer activity itself.</p> <p>Although the State of California maintains the authority to regulate the movement of waters within its borders, the Regional Board is not including requirements for water transfers.</p> <p>The language in the tentative Order has been revised to provide further clarification. See Errata Sheet</p>
<p>July 17, 2009 letter from the Metropolitan Water District of Southern California</p>	
<p>7. Metropolitan is requesting that the August 12, 2009, scheduled adoption date for the Tentative Order be delayed. This will allow additional time for the SDRWQCB staff to work with a TAC comprised of San Diego Region water agencies representing all water agencies affected by the Tentative Order.</p>	<p>See Response to Comment No. 1.</p>

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<p>8. The Tentative Order appears to eliminate the exemption from the requirements of the Monitoring and Reporting Program for discharges of less than 500,000 gallons/day. This will require reporting and approval for numerous additional discharges under 500,000 gallons/day, which could unnecessarily overwhelm administrative and compliance capabilities, for the enrolled dischargers, including Metropolitan, as well as for the SDRWQCB staff, and for the MS4 entities.</p> <p>Our concern is that this implies that any discharge quantity, including minor discharges, even those which percolate and/or evaporate prior to reaching surface water, are captured under this permit.</p>	<p>See Response to Comment No. 2</p>
<p>9. The Tentative Order requires that at least 30 days prior to a discharge, the discharger must "notify and receive authorization" from the local agency with jurisdiction over the MS4. However, the Order does not identify how this will be accomplished and if the MS4s have the capability and processes in place to adequately comply with this requirement. Additionally, there are no criteria for authorizing the discharge, nor is there a timeframe for MS4s to respond back to the discharger. This presents a substantial change from the existing permit that could result in significant delays and cost increases for all affected parties, and is not justified for de minimis potable water discharges.</p>	<p>See Response to Comment No. 4</p>
<p>10. The Fact Sheet for the Tentative Order does not provide any information regarding what (if any) historical records were reviewed that substantiate the significant changes being made to the existing General Permit.</p>	<p>Changes have been made to the language in the tentative Order to provide further clarification.</p>
<p>11. Adoption of the tentative Order is scheduled for August 14, 2009, with written comments due on August 5, 2009. That only provides</p>	<p>Comment noted. See also response to Comment No. 1</p>

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<p>six (6) working days for SDRWQCB staff to review all the written comments received from the stakeholders and make the necessary amendments to the tentative Order before it must be provided to the Board Members for review and adoption on August 14, 2009.</p>	
<p>August 4, 2009 letter from the City of Del Mar</p>	
<p>12. The Draft Tentative Order eliminates the minimum reporting level of discharges for 500,000 gallons/day or more. This will add thousands of discharges under 500,000 gallons/day that need to be reported and approved, will overwhelm administrative and compliance capability, and will increase the cost of service.</p>	<p>See Response to Comment No. 2.</p>
<p>13. The Notice of Intent contains open-ended requirements for certification of alternate methods of disposal or re-use. Potable water systems are already required to operate under strict Best Management Practices (BMPs) to limit water loss due to leakage and maintenance discharges. No additional regulation is needed.</p>	<p>See Response to Comment No. 3</p>
<p>14. Hydrostatic testing of new oil and gas facilities and reclaimed water systems have been included in this permit. At this point it is not advisable that those nonpotable utilities with a higher risk to the environment be included. They should be in a separate permit category.</p>	<p>See Response to Comment No. 5</p>
<p>15. Discharge of water into water conveyance systems is no longer exempt under the new proposal. Potable water discharged into a potable water source poses no risk to the public or environment with de-chlorination and with the use of BMPs per the current regulation.</p>	<p>See Response to Comment No. 6</p>

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<p>16. The testing requirements are extensive and will add considerable costs to the water system customers for discharge of water acceptable for human consumption and de-chlorinated per current BMP requirements.</p>	<p>It is unclear as to which testing requirements the discharger is referring to. Testing requirements have essentially remained unchanged from Order No. R9-2002-0020.</p>
<p>17. Adoption of the order is scheduled for August 12, 2009, with written comments due on August 5, 2009, and an effective date of September 1, 2009. This does not allow adequate time to resolve issues with respect to the changes from the prior permit and to respond to both verbal and written comments.</p>	<p>See Response to Comment No. 1</p>